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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,345	09/13/2004	Preston Shaffer	SHA.US.I	5344
24111	7590	12/29/2005	EXAMINER	
MESMER & DELEAULT, PLLC			MICHENER, JOSHUA J	
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SUITE 125			ART UNIT	PAPER NUMBER
PORTSMOUTH, NH 03801			3644	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/711,345	SHAFFER, PRESTON
	Examiner	Art Unit
	Joshua J. Michener	3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 September 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>09/13/2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “**the handle**” and “**the round cross-section**” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 2 and 11 are objected to because of the following informalities: “a clearance at least as large the diameter” is recited. However, it appears it should be - -a clearance at least as large as the diameter- -

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 – 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. For claims 1 and 2, “at least as wide” and “at least as large” as a water bottle are recited, but the scope can not be ascertained since applicant does not claim a water bottle for pets, thus deeming the defining dimensions indefinite.

6. Claims 3 – 9 are rejected as being dependent from a rejected base claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. **Claims 1, 6, 7, 9, 10, 15, 16 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by Rakoczy (US 6,684,815).**

9. For claims 1, 7, 10 and 16, Rakoczy (figures 9 & 10) discloses a cylindrical water bottle having a drip tube that terminates at a point outside a zone defined by the water bottle cylinder extended to the length of the drip tube, and a water bottle stand, the water bottle stand comprising a base portion (126), and a regularly polygonal holder portion (110) having a top end, a bottom end, and an internal cavity at least large enough to support the water bottle, the bottom end secured substantially perpendicularly to the base portion, and the top end having a slot (118) at least as wide as a water bottle extending longitudinally along the holder portion and terminating above the bottom end.

10. For claims 1, 6, 7, 9, 10, 15, 16 and 18, Rakoczy (figures 1 – 3) discloses a cylindrical water bottle having a drip tube that terminates at a point outside a zone defined by the water bottle cylinder extended to the length of the drip tube, and a water bottle stand, the water bottle stand comprising a base portion (30), and a regularly polygonal holder with a vertical portion (40) and a round cross-sectional portion (62) having a top end, a bottom end, handle (50), and an internal cavity (66) at least large enough to support the water bottle, the bottom end secured substantially perpendicularly to the base portion, and the top end having a slot (70) at least as wide as a water bottle extending longitudinally along the holder portion and terminating above the bottom end.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3644

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 – 4, 8, 11 – 13, and 17 rejected under 35 U.S.C. 103(a) as being

unpatentable over Rakoczy.

13. For claims 2, 8, 11 and 17, Rakoczy (figures 8 & 9) discloses the apparatus as claimed above wherein the rectangular cross-section of the internal cavity has a clearance at least as large as the diameter of a cylindrical water bottle, but fails to teach of a square cross-section. However, it would have been an obvious matter of design choice to make the different portions of the cross-section of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

14. For claims 3, 4, 12 and 13, Rakoczy (figures 1 - 3) discloses a substantially rectangular base portion and an elongated end extending beyond the holder portion (figure 3) where the elongated extending end is the section to the left of the vertical portion (40) of the holder and the right portion is the other section of the base. But, Rakoczy fails to show dimensions of at least 50% and 75% width extension. However, it would have been an obvious matter of design choice to make the base portion and elongated extension at least 50% and 75% of the width of the holder to provide greater stability, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Further, with respect to the above description, it is to be realized that the optimum dimensional relationships for the parts of the invention, to include variations in size, materials, shape, form, function and manner of

operation, assembly and use, are deemed readily apparent and obvious to one skilled in the art, and all equivalent relationships to those illustrated in the drawings and described in the specification are intended to be encompassed by the present invention (column 5, lines 60 – 67).

15. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakoczy as applied to claims 1 and 10 above, and further in view of Lassota (US 6,619,507).

16. For claims 5 and 14, Rakoczy discloses the apparatus as claimed above, but fails to teach of a drip catcher container. However, Lassota discloses a drip tray assembly (28). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Rakoczy to comprise of a drip tray assembly in order to catch drips after pet use to provide easy clean up thus helping prevent mold growth and also provide a means to minimize wet floors.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua J. Michener whose telephone number is 571-272-1467. The examiner can normally be reached on Monday through Friday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joshua J Michener
Examiner
Art Unit 3644

jjm



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